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No. 274

In the

Supreme Court of The United States

October Term, 1961

LEO CAFFERATA,
Petitioner,

vs.

THE STATE OF OHIO,
Respondent.

PETITION FOR REHEARING

LEO CAFFERATA
471 Riddle Rd.
Cincinnati 20, Ohio
Pro Se

THE TIME FOR FILING THIS PETITION FOR REHEARING WAS EXTENDED BY MR. JUSTICE STEWART TO NOVEMBER 10, 1961.

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PETITION FOR REHEARING

Petitioner respectfully asks this Honorable Court to rehear its judgment of October 9, 1961, denying the Petition for A Writ of Certiorari to the Supreme Court of Ohio, heretofore filed by Petitioner herein; this Petition for Rehearing is filed in accordance with the provisions of Rule 58 of the Rules of this Honorable Court; the time for filing this Petition for Rehearing was extended by Mr. Justice Stewart to November 10, 1961.

REASONS FOR GRANTING REHEARING

Developments have arisen since the judgment of this Court denying certiorari was entered on October 9, 1961, that require this cause to be reheard.

This case involves two cases from the Supreme Court of Ohio that have been combined into one case for the

purpose of the exercise of the Certiorari Jurisdiction by this Court. One of those cases, coming from the Supreme Court of Ohio is Case No. 36937 (that is the number of the case in the Supreme Court of Ohio). Case No. 36937 involves a conviction for violation of the Ohio Conflict of Interest Statute. The other case, Case No. 37018 (that is the number of the case in the Supreme Court of Ohio) is a conviction for violation of the Ohio Perjury Statute, a conviction that arises out of Case No. 36937.

Today, there are more people than at any other time in the history of the country in the stock market: to protect those people from the unscrupulous. The United States Securities and Exchange Commission is proposing a new rule to prevent "conflict of interest" from arising between investors in the stock market and investment advisers. See: SEC Release No. 120, Investment Advisers Act of 1940, October 16, 1961, *issued just one (1) week after certiorari was denied in this case.* It is safe to say with much more than a reasonable degree of certainty that the country is "conflict of interest" conscious. The phrase is heard daily and it is used profusely, but no one knows just what is meant by the phrase "conflict of interest." No Court yet, certainly not this Court, has given a definitive definition of that phrase—the definition to end definitions, in a manner of speaking. That is why, in view of the action of the SEC, coming as it did, *just one (1) short week after certiorari was denied in this case*, requires that rehearing be granted, and this case be heard on its merits and this Court give the definitive definition of what is meant by the phrase, "conflict of interest". It is obvious that while the fate of this petitioner is paramount to the petitioner, the class nature of the exercise of the certiorari jurisdiction, in view of the recent action of the SEC, as noted herein, necessitates that rehearing be granted and this case be heard on its merits.

This is particularly so, since the validity of the perjury conviction must, as a reading of the record conclusively shows, stand or fall on the conflict of interest conviction. *Thompson* v. *Louisville*, 362 U.S. 199—*a conviction without evidence murders due process.*

For the foregoing reasons, rehearing should be granted and the judgment of the Supreme Court of Ohio reversed, and the Petitioner ordered discharged.

All of which is respectfully submitted by,

LEO CAFFERATA, Pro Se
471 Riddle Rd.
Cincinnati 20, Ohio

CERTIFICATE OF COUNSEL

I, Leo Cafferata, Petitioner herein, acting as my own counsel, certify that the foregoing Petition for Rehearing is filed by me in good faith; that it is not filed for the purposes of delay; and that it is strictly limited to the grounds stated therein.

LEO CAFFERATA, Pro Se
471 Riddle Rd.
Cincinnati 20, Ohio